
A BILL FOR AN ACT

RELATING TO RECYCLING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 339D-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§339D-1 Definitions.** As used in this chapter:

4 "Brand" means a symbol, word, or mark that identifies a
5 covered electronic device [~~or a covered television~~], rather than
6 any of its components.

7 "Collector" means a person who accepts covered electronic
8 devices for reuse or delivers the devices to a recycler for the
9 purposes of this chapter.

10 "Covered electronic device":

11 (1) Means [~~a computer, computer printer, computer monitor,~~
12 ~~or portable computer with a screen size greater than~~
13 ~~four inches measured diagonally;~~] electronic equipment
14 intended for use by consumers and businesses, such as
15 televisions and their peripherals; computers and their
16 peripherals; and similar devices used by consumers and
17 businesses; and

18 (2) Shall not include:



- 1 (A) A covered electronic device that is a part of a
2 motor vehicle or any component part of a motor
3 vehicle assembled by or for a motor vehicle
4 manufacturer or franchised dealer, including
5 replacement parts for use in a motor vehicle;
- 6 (B) A covered electronic device that is functionally
7 or physically required as a part of a larger
8 piece of equipment designed and intended for use
9 in an industrial, commercial, or medical setting,
10 including diagnostic, monitoring, or control
11 equipment;
- 12 (C) ~~[A covered electronic device that is contained~~
13 ~~within a clothes washer, clothes dryer,~~
14 ~~refrigerator, refrigerator and freezer, microwave~~
15 ~~oven, conventional oven or range, dishwasher,~~
16 ~~room air conditioner, dehumidifier, or air~~
17 ~~purifier; or] Children's toys that meet the ASTM~~
18 ~~International F963 standard for toy safety;~~
- 19 (D) Equipment intended to change the physical
20 properties of ambient air;
- 21 (E) Lamps and other devices to provide artificial
22 illumination;



- 1 (F) Major appliances;
- 2 (G) Personal hygiene products;
- 3 (H) Power tools;
- 4 (I) Small appliances;
- 5 ~~[(D)]~~ (J) A telephone of any type; or
- 6 (K) White goods.

7 "Covered entity" means any household, government entity,
 8 business, or nonprofit organization exempt from taxation under
 9 section 501(c)(3) of the United States Internal Revenue Code,
 10 regardless of size or place of operation within the State.

11 ~~["Covered television"]:~~

12 ~~(1) Means any device that is capable of receiving~~
 13 ~~broadcast, cable, or satellite signals and displaying~~
 14 ~~television or video programming, including without~~
 15 ~~limitation any direct view or projection television~~
 16 ~~with a viewable screen of nine inches or larger with~~
 17 ~~display technology based on cathode ray tube, plasma,~~
 18 ~~liquid crystal, digital light processing, liquid~~
 19 ~~crystal on silicon, silicon crystal reflective~~
 20 ~~display, light emitting diode, or similar technology~~
 21 ~~marketed and intended for use by a household;~~

22 ~~(2) Shall not include:~~



- 1 ~~(A) A computer, computer printer, computer monitor,~~
- 2 ~~or portable computer;~~
- 3 ~~(B) A television that is a part of a motor vehicle or~~
- 4 ~~any component part of a motor vehicle assembled~~
- 5 ~~by or for a vehicle manufacturer or franchised~~
- 6 ~~dealer, including replacement parts for use in a~~
- 7 ~~motor vehicle;~~
- 8 ~~(C) A television that is functionally or physically~~
- 9 ~~required as a part of a larger piece of equipment~~
- 10 ~~designed and intended for use in an industrial,~~
- 11 ~~commercial, or medical setting, including~~
- 12 ~~diagnostic, monitoring, or control equipment;~~
- 13 ~~(D) A telephone of any type, including a mobile~~
- 14 ~~telephone; or~~
- 15 ~~(E) A global positioning system.]~~

16 "Department" means the department of health.

17 "Electric devices" means any device or appliance that
18 operates on electricity.

19 "Electronic device manufacturer":

20 (1) Means any existing person:

21 (A) Who manufactures or manufactured covered
22 electronic devices under a brand that it owns or



1 owned or is or was licensed to use, other than a
2 license to manufacture covered electronic devices
3 for delivery exclusively to or at the order of
4 the licensor;

5 (B) Who sells or sold covered electronic devices
6 manufactured by others under a brand that the
7 seller owns or owned or is or was licensed to
8 use, other than a license to manufacture covered
9 electronic devices for delivery exclusively to or
10 at the order of the licensor;

11 (C) Who manufactures or manufactured covered
12 electronic devices without affixing a brand;

13 (D) Who manufactures or manufactured covered
14 electronic devices to which it affixes or affixed
15 a brand that it neither owns or owned nor is or
16 was licensed to use; or

17 (E) For whose account covered electronic devices
18 manufactured outside the United States are or
19 were imported into the United States; provided
20 that if at the time those covered electronic
21 devices are or were imported into the United
22 States and another person has registered as the



1 manufacturer of the brand of the covered
2 electronic devices, this paragraph shall not
3 apply;

4 (2) Shall not include persons who refurbish, repair, or
5 reuse damaged or used covered electronic devices or
6 who manufacture no more than one hundred [computers]
7 covered electronic devices per year.

8 "Household" means any occupant of a single detached
9 dwelling unit or of a single unit of a multiple dwelling unit
10 who has used a covered electronic device or covered television
11 at a dwelling unit primarily for personal or home business use.

12 "Major appliances" means major appliances and any component
13 or replacement parts, including refrigerators, freezers, other
14 refrigeration appliances, clothes washers; clothes dryers,
15 central air conditioners, range and ovens, microwave ovens,
16 dishwashers, air conditioners, dehumidifiers, humidifiers, air
17 purifiers, electric water dispensers, compactors, food waste
18 disposals, heating, ventilation, air conditioning,
19 refrigeration, and water heating equipment, furnaces, water
20 heaters, boilers and other similar major appliances.

21 [~~"Market share"~~]:



1 ~~(1) Means the calculation of a television manufacturer's~~
2 ~~prior year's sales of televisions divided by all~~
3 ~~manufacturers' prior year's sales for all televisions,~~
4 ~~as determined by the department,~~

5 ~~(2) May be expressed as a percentage, a fraction, or a~~
6 ~~decimal fraction.]~~

7 "New covered electronic device" means a covered electronic
8 device that is manufactured after the effective date of this
9 chapter.

10 "Peripheral" means any electrically powered device intended
11 for use with a computer, television or similar device.

12 "Person" means any individual, business, partnership,
13 limited liability company, corporation, not-for-profit
14 organization, association, government entity, public benefit
15 corporation, or public authority.

16 "Program year" means a full calendar year beginning on or
17 after January 1, 2010, and each calendar year thereafter
18 beginning on January 1.

19 "Recover" means to reuse or recycle.

20 "Recycling" means processing (including disassembling,
21 dismantling, or shredding) covered electronic devices or
22 [~~covered televisions or~~] their components to recover a useable



1 product; provided that "recycling" does not include any process
2 defined as incineration under applicable laws and rules.

3 "Refurbish" means to recondition or repair a used product
4 to restore it to a saleable or, if donated, useable condition.

5 "Representative organization" means a nonprofit
6 organization created to administer and govern the collection,
7 transportation, and recycling program on behalf of the
8 electronic device manufacturers who are its constituent members.

9 "Retailer" means any person who offers covered electronic
10 devices or covered televisions for sale, other than for resale
11 by the purchaser, through any means, including sales outlets,
12 catalogs, or the Internet.

13 "Reuse" means any operation by which an electronic device
14 changes ownership and is used for the same purpose for which it
15 was originally purchased.

16 "Sell" or "sale" means any transfer for consideration of
17 title, including transactions conducted through sales outlets,
18 catalogs, or the Internet, but excluding leases.

19 "Small appliances" means small appliances and any component
20 or replacement part, including air treatment products, kitchen
21 appliances, beverage makers, garment care products, personal



1 care products, vacuum cleaners, and other similar household
2 small appliances.

3 [~~"Television manufacturer" means a person who:~~

4 ~~(1) Manufactures for sale in the State a covered~~

5 ~~television under a brand that it licenses or owns;~~

6 ~~(2) Manufactures for sale in the State covered televisions~~

7 ~~without affixing a brand;~~

8 ~~(3) Resells into the State a covered television~~

9 ~~manufactured by others under a brand that the seller~~

10 ~~owns or is licensed to use;~~

11 ~~(4) Imports into the United States or exports from the~~

12 ~~United States a covered television for sale in the~~

13 ~~State;~~

14 ~~(5) Sells at retail a covered television acquired from an~~

15 ~~importer described in paragraph (4), and elects to~~

16 ~~register as the manufacturer for those products;~~

17 ~~(6) Manufactures covered televisions and supplies them to~~

18 ~~any person or persons within a distribution network~~

19 ~~that includes wholesalers or retailers in this State;~~

20 ~~or~~

21 ~~(7) Assumes the responsibilities and obligations of a~~

22 ~~television manufacturer under this chapter. In the~~



1 ~~event the television manufacturer is one who~~
2 ~~manufactures, sells, or resells covered televisions~~
3 ~~under a brand for which it has obtained the license,~~
4 ~~then the licensor or brand owner of the brand shall~~
5 ~~not be included in the definition of television~~
6 ~~manufacturer under paragraph (1) or (3).]~~

7 "White goods" means discarded major appliances, including
8 but not limited to clothes dryers, hot water heaters,
9 refrigerators, stoves and washing machines.

10 SECTION 2. Chapter 339D, part II, Hawaii Revised Statutes,
11 is amended to read as follows:

12 **"§339D-3 Sales prohibition.** (a) Beginning [~~January 1,~~
13 ~~2010~~] December 1, 2014, no electronic device manufacturer or
14 retailer shall sell or offer for sale any new covered electronic
15 device for delivery in this State unless:

16 (1) The covered electronic device is labeled with a brand,
17 and the label is permanently affixed and readily
18 visible; and

19 (2) The brand is included in a registration that is filed
20 with the department and that is effective pursuant to
21 section 339D-4(b)(3).



1 (b) Beginning April 1, ~~[2009]~~ 2014, the department shall
2 maintain a list of each registered electronic device
3 manufacturer or representative organization and the brands
4 reported in each electronic device manufacturer's registration
5 or representative organization's registration. ~~[and a list of~~
6 ~~brands for which no electronic device manufacturer has~~
7 ~~registered. The lists shall be posted on the department website~~
8 ~~and shall be updated by the first day of each month]~~ The list
9 shall be posted on the department website and shall be updated
10 as necessary. Each retailer who sells or offers for sale any
11 new covered electronic device for delivery in this State shall
12 review these lists prior to selling the covered electronic
13 device. A retailer is considered to have complied with
14 subsection (a) if, on the date a new covered electronic device
15 was ordered by the retailer, the brand was included on the
16 ~~[department's]~~ website's list of registered brands ~~[reported in~~
17 ~~an electronic device manufacturer's registration].~~

18 **§339D-4 Electronic device manufacturer responsibility.**

19 (a) Beginning ~~[October 1, 2009]~~ January 1, 2014, each electronic
20 device manufacturer shall label all new covered electronic
21 devices ~~[to be offered for sale for delivery in this State]~~ with



1 a brand, for which the label shall be permanently affixed and
2 readily visible.

3 (b) (1) By January 1, [~~2009~~] 2014, each electronic device
4 manufacturer of new covered electronic devices offered
5 for sale for delivery in this State or a
6 representative organization of such electronic device
7 manufacturers shall register with the department and
8 pay to the department a registration fee of \$5,000 for
9 each individual manufacturer or \$20,000 for each
10 representative organization. Thereafter, if an
11 electronic device manufacturer has not previously
12 registered or is not a member of a representative
13 organization, the electronic device manufacturer shall
14 register with the department prior to any offer for
15 sale for delivery in this State of the electronic
16 device manufacturer's new covered electronic devices;

17 (2) Each electronic device manufacturer or representative
18 organization who is registered shall submit an annual
19 renewal of its registration with the payment of a
20 registration fee of \$5,000 for each individual
21 manufacturer or \$20,000 for each representative
22 organization, by January 1 of each program year; and



1 (3) The registration and each renewal shall include a list
2 of all of the electronic device manufacturer's or
3 representative organization's brands of covered
4 electronic devices and shall be effective on the
5 second day of the succeeding month after receipt by
6 the department of the registration or renewal;

7 (c) Each electronic device manufacturer may develop its
8 own recycling program or may collaborate with other electronic
9 device manufacturers in a representative organization, so long
10 as the program is implemented and fully operational no later
11 than January 1, 2014; provided that the representative
12 organization is responsible for assessing the costs and
13 collections among its members. By [~~June 1, 2009,~~] October 1,
14 2013, and annually thereafter, each representative organization
15 and each electronic device manufacturer not participating in a
16 representative organization shall submit a plan to the
17 department to establish, conduct, and manage a program for the
18 collection, transportation, and recycling of its covered
19 electronic devices sold in the State, which shall be subject to
20 the following conditions:

21 (1) The plan shall not permit the charging of a fee at the
22 point of recycling if the covered electronic device is



1 brought by the covered electronic device owner to a
2 central location for recycling; provided that the plan
3 may include a reasonable transportation fee if the
4 electronic device manufacturer or electronic device
5 manufacturer's agent removes the covered electronic
6 device from the owner's premises at the owner's
7 request and if the removal is not in conjunction with
8 delivery of a new electronic device to the owner; and
9 (2) ~~[Each electronic device manufacturer may develop its
10 own recycling program or may collaborate with other
11 electronic device manufacturers, so long as the
12 program is implemented and fully operational no later
13 than January 1, 2010.]~~ The plan shall include a
14 description of the methods for the convenient
15 collection of covered electronic devices at no cost to
16 the owner, except as provided for in subsection
17 (c)(1). The recycling plan shall provide for
18 collection services of covered electronic devices in
19 each county of the State and zip code tabulation
20 areas, as defined by the United States Census Bureau,
21 with a population greater than twenty-five thousand.



1 The recycling plan shall include at least one of the
2 following:

3 (A) Staffed drop-off site;

4 (B) Alternative collection service such as on-site
5 pick-up service; or

6 (C) Collection events held at an easily accessible,
7 central location;

8 (3) Collection services shall be provided, at a minimum,
9 once in each quarter of the year;

10 (4) Plans that contain only a mail-back option shall not
11 be allowed;

12 (5) Plans shall specify the use of only collectors
13 registered, for the purposes of this chapter, with the
14 State; and

15 (6) Plans shall specify the use of recyclers that have
16 achieved and maintained third-party accredited
17 certification from: the Responsible Recycling (R2)
18 Practices Standard, the e-Stewards Standard, or an
19 internationally accredited third-party environmental
20 management standard for the safe and responsible
21 handling of electric devices;



1 (d) By March 31, 2011, and annually thereafter, each
2 electronic device manufacturer shall submit to the department
3 the total weight of all covered electronic devices recycled in
4 the previous year, which may include both an electronic device
5 manufacturer's own covered electronic devices and those of other
6 manufacturers.

7 (e) By July 1, 2011, and annually thereafter, the
8 department shall publish a ranking of all electronic device
9 manufacturers selling covered electronic devices in the State,
10 based upon the annual total weight of covered electronic devices
11 recycled by each electronic device manufacturer or
12 representative organization in the previous year.

13 (f) The State may adopt regulations allowing a procurement
14 preference based upon an electronic device manufacturer's
15 ranking.

16 (g) The department shall review each electronic device
17 [~~manufacturer's~~] recycling plan and, within sixty days of
18 receipt of the plan, shall determine whether the plan complies
19 with this part. If the plan is approved, the department shall
20 notify the electronic device manufacturer or [~~group of~~
21 ~~electronic device manufacturers.~~] representative organization.
22 If the plan is rejected, the department shall notify the



1 electronic device manufacturer or [~~group of electronic device~~
 2 ~~manufacturers~~] representative organization and provide the
 3 reasons for the plan's rejection. Within thirty days after
 4 receipt of the department's rejection, the electronic device
 5 manufacturer or [~~group of electronic device manufacturers~~]
 6 representative organization [~~may~~] shall revise and resubmit the
 7 plan to the department for approval.

8 (h) The obligations under this part for an electronic
 9 device manufacturer who manufactures or manufactured covered
 10 electronic devices, or who sells or sold covered electronic
 11 devices manufactured by others, under a brand that was
 12 previously used by a different person in the manufacture of
 13 covered electronic devices, shall extend to all covered
 14 electronic devices bearing that brand.

15 (i) Nothing in this part is intended to exempt any person
 16 from liability that the person would otherwise have under
 17 applicable law.

18 §339D-A Recycling goals. (a) The department shall use
 19 the best available information to establish the weight of all
 20 electric devices sold in the State, including but not limited to
 21 the reports submitted pursuant to section 339D-C, state and



1 national sales data, and other reliable commercially available,
2 supplemental sources of information.

3 (b) No later than September 1, 2013, and annually
4 thereafter, the department shall notify each electronic device
5 manufacturer or representative organization of its recycling
6 obligation.

7 (c) For 2014, each electronic device manufacturer or
8 representative organization shall collect and recycle the
9 equivalent of 60 per cent, by weight, of their products sold in
10 the state two years prior.

11 (1) For 2015, the goal shall be 70 per cent, by weight, of
12 their products sold in the state two years prior,
13 unless amended by rule pursuant to chapter 91; and

14 (2) For 2016 and thereafter the goal shall be 80 per cent,
15 by weight, of their products sold in the state two
16 years prior, unless amended by rule pursuant to
17 chapter 91.

18 (d) Electronic device manufacturers and representative
19 organizations may count reused electronic devices towards their
20 recycling goal.



1 (e) Electronic device manufacturers and representative
2 organizations may collect any electronic device or electric
3 device to meet their recycling goal.

4 (f) Collectors collecting covered electronic devices on
5 behalf of electronic device manufacturers or representative
6 organizations may limit the type of electronic devices or
7 electric devices that they will accept and may limit the number
8 of items that they will accept from a single person; provided
9 that they shall clearly indicate those limits on signage at
10 their collection sites and on their promotional literature.

11 §339D-B Record keeping requirements. (a) Each electronic
12 device manufacturer or representative organization shall
13 maintain records for a minimum five years for the following:

- 14 (1) The amount, in weight, of sales of their covered
15 electronic devices in the state annually;
- 16 (2) The amount of electronic devices or electric devices
17 it has collected for recycling or reuse by county; and
- 18 (3) The amount of electronic devices or electric devices
19 recycled or reused by each recycler on behalf of the
20 manufacturer.



1 (b) Nothing in this part is intended to exempt any person
2 from liability that the person would otherwise have under
3 applicable law.

4 §339D-C Reporting requirements. (a) By August 1, 2013,
5 and annually thereafter, each electronic device manufacturer or
6 representative organization shall report to the department its
7 sales, by weight, of the manufacturer's or its members' covered
8 electronic devices sold in the state the previous calendar year,
9 categorized by product type.

10 (b) If the electronic device manufacturer or
11 representative organization is unable to provide accurate sales
12 data, it shall explain why the data cannot be provided. The
13 electronic device manufacturer or representative organization
14 shall then report an estimate of its sales data and provide an
15 explanation on the methods used to derive the estimate.

16 (c) By March 31, 2014, and annually thereafter, each
17 electronic device manufacturer or representative organization
18 shall report to the department the total weight of all
19 electronic devices or electric devices recycled or reused, by
20 county, in the previous year. Reports shall be submitted on
21 forms prescribed by the department.



1 §339D-D Collector registration. (a) By January 1, 2014,
2 all collectors shall register with the department, using forms
3 prescribed by the department, and pay to the department a
4 registration fee of \$250, provided that the registration fee
5 shall be waived for any nonprofit organization that meets the
6 requirements in section 501(c) of the Internal Revenue Code.
7 Thereafter, if a collector has not previously registered, the
8 collector shall register with the department prior to accepting
9 electric devices. A registration shall be valid until December
10 31 of each year.

11 (b) Collectors shall submit an annual renewal of its
12 registration with the payment of a registration fee of \$250, by
13 January 1 of each year; provided that the registration fee shall
14 be waived for any nonprofit organization that meets the
15 requirements in section 501(c) of the Internal Revenue Code.

16 §339D-E Collector record keeping requirements. Collectors
17 shall maintain records for a minimum of five years for the
18 following:

19 (1) The amount, in weight, of electric devices it has
20 collected for recycling and reuse and the amounts sent
21 for recycling and reuse; and



1 (2) Bills of lading or weight tickets for all electric
2 devices sent for recycling or reuse.

3 §339D-F Collector reporting requirements. By March 31,
4 2015, and annually thereafter, each collector shall report to
5 the department the weight of all electronic devices or electric
6 devices collected for recycling or reuse in the previous year
7 for the purposes of this chapter. Reports shall be submitted on
8 forms prescribed by the department and shall indicate the weight
9 of electronic devices or electric devices sent to each recycler.
10 Collectors shall also report the amount of electronic devices or
11 electric devices reused.

12 §339D-G Collector responsibility. (a) Collectors shall
13 possess and maintain all necessary business and environmental
14 permits.

15 (b) All collected electronic devices shall be sent for
16 recycling or reuse.

17 §339D-5 Retailer responsibility. Beginning January 1,
18 [2010,] 2014, retailers shall make available to their customers
19 information on collection services in the State[, including the
20 department's website and toll-free telephone number]. [Remote]
21 Online retailers may include this information in a visible
22 location on their website to fulfill this requirement.



1 **§339D-6 Department responsibility.** [Beginning] By January
2 1, [~~2010,~~] 2014, the department shall post and maintain [~~and~~
3 ~~update a website and a toll-free number with current information~~
4 ~~on where covered entities can return covered electronic devices~~
5 ~~for recycling.~~] information about recycling covered electronic
6 devices on its website."

7 SECTION 3. Chapter 339D, Part III, Hawaii Revised Statutes,
8 is amended to read as follows:

9 "~~[PART III.]~~ **GENERAL PROVISIONS**

10 **§339D-7 Regulatory authority.** The department may adopt
11 rules, pursuant to chapter 91, necessary to implement this
12 chapter.

13 **§339D-7.5 Manufacturer and agent responsibilities;**
14 **regulatory compliance.** Each covered electronic device
15 manufacturer [~~and television manufacturer~~] or representative
16 organization shall be responsible for ensuring that it and its
17 agents follow all federal, state, and local regulations when
18 collecting, transporting, and recycling covered electronic
19 devices [~~or covered televisions, and adopt environmentally sound~~
20 ~~recycling practices for the covered electronic devices or~~
21 ~~covered televisions~~].



1 §339D-H Audit authority. The records of manufacturers,
2 collectors, and recyclers shall be made available, upon request,
3 for inspection by the department, a duly authorized agent of the
4 department, or the office of the auditor.

5 ~~§339D-8 Enforcement. [(a) The department may conduct~~
6 ~~audits and inspections to determine compliance under this~~
7 ~~chapter. Except as provided in subsection (c), the department~~
8 ~~and the attorney general shall be empowered to enforce this~~
9 ~~chapter and take necessary action against any electronic device~~
10 ~~or television manufacturer or retailer for failure to comply~~
11 ~~with this chapter or rules adopted thereunder.~~

12 ~~(b) The attorney general may file suit in the name of the~~
13 ~~State to enjoin an activity related to the sale of covered~~
14 ~~electronic devices or covered televisions in violation of this~~
15 ~~chapter.~~

16 ~~(c) The department shall issue a warning notice to a~~
17 ~~person for the person's first violation of this chapter. The~~
18 ~~person shall comply with this chapter within sixty days of the~~
19 ~~date the warning notice was issued or be subject to the~~
20 ~~penalties provided by law or rule, including, but not limited~~
21 ~~to, penalties set forth in subsections (d) through (g). A~~
22 ~~retailer that receives a warning notice from the department for~~

1 ~~a violation of section 339D 3(a) or 339D 24(a) shall submit~~
2 ~~proof to the department, within sixty days from the date the~~
3 ~~warning notice was issued, that its inventory of covered~~
4 ~~electronic devices or covered televisions offered for sale is in~~
5 ~~compliance with this chapter.~~

6 ~~(d) Any retailer who sells or offers for sale an unlabeled~~
7 ~~electronic device or unlabeled covered television in violation~~
8 ~~of section 339D 3 or 339D 24, respectively, or any electronic~~
9 ~~device or television manufacturer that fails to comply with any~~
10 ~~provision of section 339D 4 or 339D 23, respectively, may be~~
11 ~~assessed a penalty of up to \$10,000 for the first violation and~~
12 ~~up to \$25,000 for the second and each subsequent violation, in~~
13 ~~addition to any additional penalties required or imposed~~
14 ~~pursuant to this chapter.~~

15 ~~(e) Except as provided in subsection (d), any person who~~
16 ~~violates any requirement of this chapter may be assessed a~~
17 ~~penalty of up to \$1,000 for the first violation and up to \$2,000~~
18 ~~for the second and each subsequent violation, in addition to any~~
19 ~~additional penalties required or imposed pursuant to this~~
20 ~~chapter.~~

21 ~~(f) The department shall determine additional penalties~~
22 ~~based on adverse impact to the environment, unfair competitive~~



1 ~~advantage, and other considerations that the department deems~~
2 ~~appropriate.~~

3 ~~(g) If a covered television manufacturer fails to recycle~~
4 ~~its market share allocation, the department shall impose a~~
5 ~~penalty of 50 cents per pound for each pound not recycled.] (a)~~

6 If the director determines that any person has violated or is
7 violating any provision of this chapter, any rule adopted
8 pursuant chapter 91, or any term or condition of a certification
9 or permit issued pursuant to this chapter, the director may do
10 any one or more of the following:

11 (1) Issue a field citation assessing an administrative
12 penalty and ordering corrective action immediately or
13 within a specified time;

14 (2) Issue an order assessing an administrative penalty for
15 any past or current violation;

16 (3) Require compliance immediately or within a specified
17 time; or

18 (4) Commence a civil action in circuit court in which the
19 violation occurred or where the person resides or
20 maintains the person's principal place of business for
21 appropriate relief, including a temporary,



1 preliminary, or permanent injunction, the imposition
2 and collection of civil penalties, or other relief.

3 (b) Any order issued pursuant to this section may include
4 a suspension, modification, or revocation of a certification or
5 permit issued under this chapter, and shall state with
6 reasonable specificity the nature of the violation.

7 (c) Any order issued under this chapter shall become
8 final, unless not later than twenty days after the notice of
9 order is served, the person or persons named therein request in
10 writing a hearing before the director. Any penalty imposed
11 under this chapter shall become due and payable twenty days
12 after the notice of penalty is served unless the person or
13 persons named therein request in writing a hearing before the
14 director. Whenever a hearing is requested on any penalty
15 imposed under this chapter, the penalty shall become due and
16 payable only upon completion of all review proceedings and the
17 issuance of a final order confirming the penalty in whole or in
18 part. Upon request for a hearing, the director shall require
19 that the alleged violator or violators appear before the
20 director for a hearing at a time and place specified in the
21 notice and answer the charges complained of.



1 (d) Any hearing conducted under this section shall be
2 conducted as a contested case under chapter 91. If after a
3 hearing held pursuant to this section, the director finds that a
4 violation or violations have occurred, the director shall:

5 (1) Affirm or modify any penalties imposed or shall modify
6 or affirm the order previously issued; or

7 (2) Issue an appropriate order or orders for the
8 prevention, abatement, or control of the violation
9 involved, or for the taking of such other corrective
10 action as may be appropriate. If, after a hearing on
11 an order or penalty contained in a notice, the
12 director finds that no violation has occurred or is
13 occurring, the director shall rescind the order or
14 penalty. Any order issued after hearing may prescribe
15 the date or dates by which the violation or violations
16 shall cease and may prescribe timetables for necessary
17 action in preventing, abating, or controlling the
18 violation.

19 (e) If the amount of any penalty is not paid to the
20 department within thirty days after it becomes due and payable,
21 the director may institute a civil action in the name of the
22 State to collect the administrative penalty which shall be a



1 government realization. In any proceeding to collect the
2 administrative penalty imposed, the director need only show
3 that:

- 4 (1) Notice was given;
- 5 (2) A hearing was held or the time granted for requesting
6 a hearing expired without a request for a hearing;
- 7 (3) The administrative penalty was imposed; and
- 8 (4) The penalty remains unpaid.

9 (f) In connection with any hearing held pursuant to this
10 section, the director shall have the power to subpoena the
11 attendance of witnesses and the production of evidence on behalf
12 of all parties.

13 §339D-9 ~~[Administrative penalties; fees. (a) In addition~~
14 ~~to any other administrative or judicial remedy provided by this~~
15 ~~chapter or by rules adopted under this chapter for a violation~~
16 ~~thereof, the department is authorized to impose by order~~
17 ~~administrative penalties and is further authorized to set,~~
18 ~~charge, and collect administrative fines and to recover~~
19 ~~administrative fees and costs, including attorney's fees and~~
20 ~~costs, or to bring legal action to recover administrative fines~~
21 ~~and fees and costs, including attorney's fees and costs.~~



1 ~~(b) Notwithstanding subsection (a), the department shall~~
2 ~~not have the authority to assess any fees, including an advanced~~
3 ~~recycling fee, registration fee, or other fee, on consumers,~~
4 ~~television manufacturers, or retailers for recovery of covered~~
5 ~~televisions except those noted in sections 339D-4 and 339D-22.]~~

6 **Penalties.** (a) Any person who intentionally, knowingly, or
7 negligently violates any provision of this chapter, or any rule
8 adopted pursuant to this chapter, shall be fined not more than
9 \$10,000 for each separate offense. Each day of each violation
10 shall constitute a separate offense. Any action taken to impose
11 or collect the penalty provided for in this section shall be
12 made through administrative, civil, or criminal actions.

13 (b) If an electronic device manufacturer or representative
14 organization fails to recycle its goal amount, the department
15 shall impose a penalty of up to one dollar per pound for each
16 pound of the goal amount not recycled.

17 §339D-10 **Electronic device recycling fund.** (a) There is
18 established in the state treasury the electronic device
19 recycling fund into which shall be deposited all fees, payments,
20 and penalties collected by the department pursuant to this
21 chapter.



1 (b) The electronic device recycling fund shall be
2 administered by the department of health. Moneys in the fund
3 shall be expended by the director [~~solely~~] for the purpose of
4 implementing and enforcing this chapter; provided that a portion
5 of the funds shall be distributed annually to the counties to
6 assist in implementing and managing the program.

7 §339D-I Role of counties. Nothing in this chapter is
8 intended to require any county agency to include covered
9 electronic devices in any waste management activities or
10 programs intended to increase or provide opportunities for
11 recycling. Any county agency that collects covered electronic
12 devices in the course of waste management activities or programs
13 intended to increase or provide opportunities for recycling may
14 make electronic devices or electric devices collected in such
15 activities or programs available to individual electronic device
16 manufacturers or representative organizations; provided that the
17 electronic device manufacturer or representative organization
18 shall fairly compensate or reimburse the counties for their cost
19 of collecting such electronic devices or electric devices with
20 the compensation or reimbursement to be negotiated between the
21 county and the electronic device manufacturer or representative
22 organization.



1 ~~[\$339D-11 Financial and proprietary information; report.~~

2 ~~(a) Notwithstanding any law to the contrary, financial or~~
3 ~~proprietary information, including trade secrets, commercial~~
4 ~~information, and business plans, submitted to the department~~
5 ~~under this chapter is confidential and is exempt from public~~
6 ~~disclosure to the extent permitted by chapter 92F.~~

7 ~~(b) The department shall compile the information submitted by~~
8 ~~covered television manufacturers and issue a report to the~~
9 ~~legislature no later than April 1, 2012, and annually each year~~
10 ~~thereafter.]~~

11 ~~[\$339D-12 Federal preemption. (a) Part II of this~~
12 ~~chapter shall be deemed repealed if a federal law or a~~
13 ~~combination of federal laws takes effect that establishes a~~
14 ~~national program for the collection and recycling of covered~~
15 ~~electronic devices that substantially meets the intent of part~~
16 ~~II of this chapter, including the creation of a financing~~
17 ~~mechanism for collection, transportation, and recycling of all~~
18 ~~covered electronic devices from covered entities in the United~~
19 ~~States.~~

20 ~~(b) Part IV of this chapter shall be deemed repealed if a~~
21 ~~federal law or a combination of federal laws takes effect that~~
22 ~~establishes a national program for the recycling of covered~~



1 ~~televisions that substantially meets the intent of part IV of~~
2 ~~this chapter.] "~~

3 SECTION 4. Section 480-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§480-11 Exemption of certain cooperative organizations;
6 insurance transactions; approved mergers of federally regulated
7 companies; homeless facility and program donors and provider
8 agencies. (a) Nothing in this chapter shall be construed to
9 forbid the existence and operation of fishery, agricultural, or
10 consumer cooperative organizations or associations instituted
11 for the purpose of mutual help that are organized and operated
12 under chapter 421 or 421C, or that conform and continue to
13 conform to the requirements of the Capper-Volstead Act (7 U.S.C.
14 291 and 292); provided that if any organization or association
15 monopolizes or restrains trade or commerce in any section of
16 this State to an extent that the price of any fishery,
17 agricultural, or consumer product is unduly enhanced by reason
18 thereof, this chapter shall apply to those acts.

19 (b) This chapter shall not apply to any transaction in the
20 business of insurance that is in violation of any section of
21 this chapter if the transaction is expressly permitted by the
22 insurance laws of this State; provided that nothing in this



1 section shall render this chapter inapplicable to any agreement
2 to boycott, coerce, or intimidate or any act of boycott,
3 coercion, or intimidation.

4 (c) This chapter shall not apply to mergers of companies
5 where the mergers are approved by the federal regulatory agency
6 that has jurisdiction and control over the mergers.

7 (d) This chapter shall not apply to:

8 (1) Any provider agencies or donors under part XVII of
9 chapter 346;

10 (2) Any provider agency or donor method or act that
11 complies with part XVII of chapter 346; [~~or~~]

12 (3) Any cooperation or agreement authorized pursuant to
13 rule under part XVII of chapter 346 [~~or~~]; or

14 (4) An electronic device manufacturer belonging to a
15 representative organization under chapter 339D,
16 provided that membership or participation in the
17 representative organization is voluntary."

18 SECTION 5. Chapter 339D, Part IV, Hawaii Revised Statutes,
19 is repealed.

20 SECTION 6. In codifying the new sections added by sections
21 2 and 3 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act, upon its approval, shall take effect
6 on July 1, 2013.

7



Report Title:

Recycling; Electric Devices

Description:

Amends and expands the Electronic Device and Television
Recycling program. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

